

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KIMBERLY BOTTOMS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

BLOCK, INC. (F/K/A, SQUARE, INC.) (D/B/A,
CASH APP),

Defendant.

No. 2:23-cv-01969-MJP

STIPULATION AND ~~[PROPOSED]~~
ORDER] REGARDING CONDUCTING
DEPOSITIONS BY REMOTE MEANS

Noted for Consideration:
September 5, 2024

STIPULATION

Pursuant to Federal Rule of Civil Procedure 29(a), the parties agree to the following
protocols regarding virtual depositions in this matter:

Virtual Depositions. The depositions of witnesses in this case may be conducted by
remote videoconference.

Notice and Login. The parties, the witness, and their counsel (the “Attendees”) will
attend the deposition through a secure video conferencing connection, the invitation for which
will be provided by a court reporting service selected by the party noting the deposition at least
one day prior to the deposition. The Attendees will connect to the secure video platform at least
15 minutes prior to the scheduled time for the deposition with a webcam-equipped laptop,
desktop or mobile device and a stable internet connection with an upload speed of greater than 5
Mbps (recommended speed test: <https://www.speedtest.net>).

STIPULATION REGARDING CONDUCTING
DEPOSITIONS BY REMOTE MEANS
(2:23-cv-01969-MJP) - 1

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1 **Physical Presence with Deponent.** The deponents will be made available for deposition
 2 by video. The only person permitted in the same room as the deponent is the deponent's lawyer,
 3 in which case the deponent and the deponent's lawyer will each have their own computer with
 4 camera, and individual or shared audio feeds via microphone or telephone. The deponent will
 5 position his or her webcam to provide a wide angle sufficient to capture his or her hand and other
 6 movements.

7 **Conduct of Deponent.** The oath will be administered and the stenographic record will
 8 be taken remotely. In lieu of an oath administered in-person, the witness will orally declare
 9 his/her testimony in this matter under penalty of perjury. While on the record, the deponent will
 10 not privately confer with anyone between a question and an answer except for the purpose of
 11 determining the existence and questions of privilege. This stipulation does not govern the
 12 conduct of anyone while not on the record. While on the record the deponent will not use any
 13 communication device other than those to facilitate the deposition.

14 **Contact with the Deponent During a Virtual Deposition.** While on the record, no one
 15 will communicate with the deponent outside of the video/audio stream. This includes, but is not
 16 limited to, instant messaging, text messaging, or any equivalent. In the event any such
 17 communications occur, the parties agree that the communications are discoverable.

18 **Technology Requirements.** All video depositions will be stenographically recorded by
 19 a court reporter. The depositions may also be recorded by a videographer if the noticing party
 20 provided notice of the same in the deposition notice. If the noticing party elects to hire a
 21 videographer to record the deposition, only the witness will be visually recorded on video. The
 22 videographer will record only the audio of the remaining Attendees. The court reporter will at
 23 all times have access to the same interface as the witness. The deponent, the deponent's lawyer,
 24 and the questioning attorney must have a webcam-equipped device (such as a desktop, laptop, or
 25 tablet), and a device with audio-capabilities or access to a telephone for calling into the
 26 deposition, such that the deponent, deponent's lawyer, and the questioning attorney may be seen
 27 and heard at all times during the deposition. Unless directed otherwise by the court reporter, all

1 other attendees will turn video off such that their names appear instead of their live video images
2 (but they may view the video feed of the deposition). Counsel for the deponent shall be
3 responsible for ensuring that the witness has access to required equipment on the day of the
4 deposition and that the any equipment checks or tests (as instructed by the deposition services
5 vendor) have been completed prior to the deposition. Noticing counsel are not responsible for
6 the quality or functionality of the video and audio stream for the deponent or other participants.
7 Attendees agree to work in good faith to facilitate remote participation.

8 **Identification of Individuals In Attendance.** All Attendees shall be identified on the
9 record at the commencement of the deposition. Persons attending by telephone must identify
10 themselves by name and by telephone number. Under no circumstances may a person attend the
11 deposition remotely in any manner without identifying themselves on the record at the
12 commencement of the deposition or when admitted later by the court reporter.

13 **Conduct by Participants Appearing Virtually.** In addition to the provisions set forth
14 above, each Attendee should attend from a quiet, private location. All Attendees other than the
15 deponent, court reporter, deposing attorney, and objecting attorney will set their audio
16 connection to mute to avoid unintentional noise.

17 **Disruptions.** In the event the video feed of the deponent, court reporter, deposing
18 attorney, or the objecting attorney is interrupted, the deposition will be suspended, and the
19 parties will go back on the record only when the video stream functionality has been restored.
20 Disruptions due to video streaming, phone line interruptions, or other technical problems shall
21 not be counted against record time. If a party believes that the transmission and/or recording was
22 disrupted in bad faith, including but not limited to for purposes of delay, it may seek appropriate
23 relief from the Court. Counsel or the witness can request breaks just as they would during an in-
24 person deposition.

25 **Exhibits.** If and to the extent that the deponent brings documents with him or her to the
26 deposition that the deposing party wishes to have marked as exhibits, the witness will email the
27 court reporter and the parties' counsel a full and complete copy of those documents.

1 The deposing party is not required to provide the witness an advance copy of each exhibit
2 prior to the introduction of that exhibit.

3 The parties may mark and share exhibits using the court reporter's technology, which
4 facilitates the sharing and review of exhibits through chat and/or exhibit share features. If the
5 chat or exhibit share features do not work for any Attendees, exhibits will alternatively be shared
6 through some other electronic means such as by email or through a file share site. The deposing
7 party may direct the witness to a certain part of an exhibit during the deposition by using a
8 pointer, drawing or highlighting function as provided by the court reporter's software or other
9 electronic means.

10 Alternatively, a deposing party may share exhibits by mailing all parties and witnesses a
11 hard copy of the exhibits and by emailing or otherwise transmitting electronic copies of the
12 documents to the court reporter. At the commencement of the deposition, the party shall also
13 share the exhibits with the other Attendees through email or a file share site. The opposing
14 party, its counsel (including anyone working on behalf of the opposing party or its counsel), and
15 the witness shall not open the package containing the hard copy exhibits until the parties are on
16 the record.

17 **Court Reporter and Videographer.** The parties stipulate, in accordance with Federal
18 Rule of Civil Procedure 30(b)(4), that the court reporter or videographer may participate in the
19 deposition by remote means, and that the deposition will be deemed to have been conducted
20 "before" that officer, even though the officer is not physically present with the deponent, so long
21 as that officer is able to identify the deponent. The court reporter will at all times have access to
22 the same interface as the witness.

23 The court reporter's transcript, and the videographer's recording (if any), shall constitute
24 the official record of the deposition for all purposes.

25 **Other Recording.** No Attendee other than the court reporter and videographer (if any)
26 may record or capture any audio, video, or images of any of the proceedings. This shall include
27 recording using any form of remote transmitting device, computer recording device, laptops,

1 camera, and personal device, including smart phones, tablets, iPads, Androids, iPhones,
2 Blackberries, or other PDAs. Nothing in this provision prevents or limits the taking of notes by
3 those identified on the record.

4 Remote depositions conducted in accordance with this Stipulation may be admitted at
5 trial with the same effect as a deposition conducted in-person.

6 Unless otherwise set forth herein, the Federal Rules of Civil Procedure, Federal Rules of
7 Evidence, and other applicable authority shall govern as though the deposition was conducted in-
8 person.

9 This stipulation will be in effect until one of the parties provides notice of the need to
10 make changes to it and agreement is reached, or if the court orders that other procedures shall
11 apply. The parties agree to make this stipulation an exhibit to the depositions in this case.

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13 STIPULATED TO AND DATED this 6th day of September, 2024.
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Attorneys for Plaintiff

~~PROPOSED~~ ORDER

It is so ORDERED.

DATED: September 6, 2024



The Honorable Marsha J. Pechman
UNITED STATES DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2024, I filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

DATED this 5th day of September, 2024.

s/ Lauren B. Rainwater

Lauren B. Rainwater, WSBA #43625